

REMARKS

The present Amendment is in response to the Official Action mailed March 12, 2007. Claims 1-18 have been amended. Claims 19-24 have been cancelled. Thus, claims 1-18 remain currently pending in the present application. The following sets forth Applicants remarks relating to the outstanding Action and the above-noted amendments of the currently pending claims.

As an initial matter, Applicants have set forth amendments to the originally filed abstract above. According to the Examiner's statement in his Official Action, the originally filed abstract exceeded the 150 word limit for permitted such section. Applicants have removed certain sections not needed to convey the invention in brief terms. The removal of these sections is not to be taken in any way as a narrowing of the scope of the present invention. Moreover, as is noted above, claims 19-24 have been canceled from the present application. This has been done in accordance with Applicants' election of Group I corresponding to claim 1-18. Applicants note that they reserve the right to pursue any non-elected/canceled claims in one or more continuation and/or divisional applications relating to the present case.

Further in the Official Action, the Examiner objected to certain claims as having an unclear scope. In the amendments set forth above with regard to claims 1-18, Applicants have amended such claims to more particularly capture a drill assembly having the elements of an intervertebral disc replacement device, an insertion plate, and a drill guide. This has been done to clear up any misconceptions regarding the claims, and to more clearly claim one aspect of the present invention. Applicants respectfully submit that these amendments of claims 1-18 not only overcome these claim objections, but also, as will be discussed more fully below, the rejections set forth by the Examiner in the Action.

Turning to the rejections set forth in the Official Action, the Examiner rejected claims 1-15 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2003/0187454 to Gill et al. ("Gill"), and claims 17-18 under 35 U.S.C. § 103(a) as being obvious over Gill. Essentially, it is the Examiner's position that Gill teaches each and every one of the limitations of the currently pending claims save for those additional limitations set forth in dependent claims 17 and 18. With regard to these claims, the Examiner feels as though the additional limitations set forth in such claims are merely obvious variants over that taught in Gill. Applicants, without commenting on the originally filed claims, believe that the above-amended claims are neither anticipated nor obviated by Gill.

Gill teaches an insertion device for use in inserting a two-piece articulating intervertebral implant. The insertion device allows a surgeon or other medical professional to capture both pieces of the spinal implant at one end thereof. This, in turn, allows for said pieces to be held in relation to one another during insertion between two adjacent vertebrae. Although there is some disclosure in Gill relating to the fact that the insertion guide may aid in drilling holes in these vertebrae, the aim of the device is not directed to drilling. In addition, there is no teaching or suggestion in Gill of the use of an insertion plate. Rather, the insertion device of Gill cooperates directly with the implant taught therein. This makes for a more difficult drilling process.

On the other hand, the present invention contemplates a separate drill guide for use with a multi-piece intervertebral disc replacement that has been fastened to an insertion plate so that its multiple pieces or members are held together during an insertion between two vertebrae. More particularly, the pieces of the intervertebral disc replacement are first coupled with an

insertion plate, which in turn may be coupled to an insertion handle. This set up allows for insertion of the implant without movement of its individual pieces or member. Once the implant has been set in place, a surgeon or other medical professional may detach the insertion handle from the insertion plate and then utilize the specially designed drill guide in connection with the implant and insertion plate combination. This specially designed drill guide can be easily coupled with the insertion plate and manipulated to aid in drilling the necessary holes through the vertebral bone contacting one-piece of the implant, as well as the vertebral bone contacting the other piece of the implant. The drill guide provides the benefit to a surgeon or other medical professional of allowing for easier access to these respective areas. Where the insertion device taught in Gill has a handle juxtaposed between the apertures associated with the different areas in which holes need to be drilled, the drill guide of the present invention includes a handle which is disposed significantly further from holes associated with the first implant member or the second implant member, depending upon how the drill guide is situated. This provides a greater window for a surgeon to make the necessary drill cuts in both vertebral bodies. The fact that the drill guide of the present invention is capable of coupling with the insertion plate of the present invention, allows for the two different alignment modes of the drill guide, depending upon which vertebral body is being drilled. This provides for an easier drilling procedure to be completed by the surgeon or medical professional. Thus, the configuration and cooperation among the intervertebral disc replacement device, the insertion plate and the drill guide of the present invention overcomes shortcomings associated with the insertion guide taught in Gill.

Given that the above-discussed differences and benefits have been incorporated into independent claims 1 and 10

of the currently pending claims, Applicants submit that such claims overcome the rejections set forth in this Action. Specifically, independent claims 1 and 10 include an intervertebral disc replacement device, an insertion plate, and a drill guide, and define the cooperation among these elements. As such, Applicants believe independent claims 1 and 10 constitute allowable subject matter. Moreover, because claims 2-9 and 11-18 properly depend from either allowable independent 1 or allowable independent claim 10, Applicants also believe such necessarily constitute allowable subject matter. A dependent claim is necessarily narrower than an independent from which it properly depends.

In light of all of the above, Applicants respectfully request that the present application be moved into a condition of allowance.

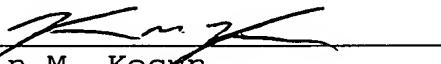
As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: June 19, 2007

Respectfully submitted,

By 
Kevin M. Kocun
Registration No.: 54,230
LERNER, DAVID, LITTENBERG,
KRUMLHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicants

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ABSTRACT OF THE DISCLOSURE

Instrumentation for implanting an intervertebral disc replacement device includes a drill guide comprising a shaft having a proximal end and a distal end and a guide member disposed at the distal end of the shaft and operable to engage an insertion plate that maintains first and second members of an intervertebral disc replacement device in registration with one another for insertion into an intervertebral disc space of a spinal column, wherein the guide member includes at least one guide bore operable to align with an area of a vertebral bone of the intervertebral disc space to which one of the first and second members of the intervertebral disc replacement device is to be attached.